

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of TOMMY HICKS and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Gainesville, FL

*Docket No. 03-1841; Submitted on the Record;
Issued November 17, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury causally related to his federal employment, as alleged.

On March 14, 2003 appellant, then a 53-year-old mail processor, filed a traumatic injury claim alleging that he injured his low back on March 10, 2003 when he swiped his time card through the time clock at work. The employing establishment issued a Form CA-16, authorization for examination and/or treatment. Dr. David Roberts, an emergency room physician, reported the following history of injury: "Left side low back pain for four days." He noted a prior workup for low back pain and diagnosed the same. When asked "Do you believe the condition found was caused or aggravated by the employment activity described?" Dr. Roberts indicated "No." He prescribed medication and released appellant to light duty on March 15, 2003 with no lifting over five pounds.

On March 26, 2003 the Office of Workers' Compensation Programs asked appellant to submit additional information to support his claim:

"Provide a statement explaining exactly how you injured your back while swiping your time card, and provide medical documentation that contains a secure diagnosis, the objective findings which support your diagnosis, copy of all treatment notes and the physician's explanation as to how your condition was caused or aggravated by swiping your time card on March 10, 2003."

Appellant submitted physical therapy notes¹ and a March 27, 2003 medical report diagnosing acute lumbar strain.

¹ The reports of physical therapists have no probative value on medical questions because a physical therapist is not a physician as defined by 5 U.S.C. § 8101(2) and therefore is not competent to render a medical opinion. *Barbara J. Williams*, 40 ECAB 649, 657 (1988).

In a decision dated May 5, 2003, the Office denied appellant's claim for compensation. The Office found that the evidence was insufficient to establish that the event occurred as alleged. The Office also found that appellant did not establish how swiping his time card caused him to sustain an injury to his back.

The Board finds that appellant has not met his burden of proof to establish that he sustained an injury causally related to his federal employment, as alleged.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.³

There is no dispute in this case that on March 10, 2003 appellant swiped his time card through the time clock at work. While he offered no elaboration and did not respond to the Office's request for an explanation of how this injured his back, the record is sufficient to establish that appellant experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged, so far as he described it. The question for determination is whether swiping his time card on March 10, 2003 caused an injury.

Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty,⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

Appellant submitted no medical opinion evidence to support his claim. To establish an entitlement to compensation, he must submit a narrative medical report from his attending physician describing exactly what happened on March 10, 2003 and why appellant waited until March 14, 2003 to report the injury and seek medical care. The physician must relate appellant's past medical history, which appears to be positive for low back pain and must provide findings

² 5 U.S.C. §§ 8101-8193.

³ See *Walter D. Morehead*, 31 ECAB 188, 194 (1979) (occupational disease or illness); *Max Haber*, 19 ECAB 243, 247 (1967) (traumatic injury). See generally *John J. Carlone*, 41 ECAB 354 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ See *William E. Enright*, 31 ECAB 426, 430 (1980).

on examination and a firm diagnosis of appellant's condition. The physician must then discuss whether the March 10, 2003 incident caused a low back injury. This is critical to appellant's claim. If the physician believes that the incident caused or aggravated appellant's diagnosed low back condition, he or she must support that opinion with sound medical reasoning. It is not necessary that the opinion be so conclusive as to suggest a causal connection beyond all possible doubt. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical.⁸ A full medical explanation is particularly needed in this case, where it is not readily apparent to the lay observer how swiping a time card through a time clock can injure one's back and cause a lifting restriction of five pounds.

Because appellant did not submit a well-reasoned medical opinion supporting that he injured his low back on March 10, 2003 by swiping his time card through the time clock at work, he has not met his burden of proof to establish the essential element of causal relationship.

The May 5, 2003 decision of the Office of Workers' Compensation Programs is modified to reflect that an employment incident occurred as alleged and is affirmed as modified.

Dated, Washington, DC
November 17, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.